

### **REMARKS**

Initially, by the present response, Applicants have amended claims 1, 3, 5, 10, 19-22, 30, 35, 38 and 41 to further clarify the invention. Further, Applicants have canceled claims 2, 4, 6, 7, 15-18, 26, 27, 36 and 37 without disclaimer. Claims 1, 3, 5, 8-14, 19-25, 28-35 and 38-44 remain pending in the present application.

In the Office Action dated March 15, 2007, claims 35-40 have been rejected under 35 U.S.C. §101. Further, claims 1, 8-14, 19, 22, 23, 25, 28-30, 33, 35 and 39-42 have been rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Application Publication No. 2004/0117470 (Rehm). Claims 2-4, 6, 7, 15, 17, 26, 27, 31, 32, 36 and 37 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Rehm in view of U.S. Patent Application Publication No. 2003/0135609 (Carlson et al.). Claims 5, 16, 18 and 38 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Rehm in view of Carlson et al. and further in view of U.S. Patent No. 6,701,342 (Bartz et al.).

Claim 20 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Rehm in view of U.S. Patent No. 7,143,153 (Black et al.). Claims 21, 24, 43 and 44 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Rehm in view of Bartz et al. Claim 34 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Rehm in view of U.S. Patent No. 6,925,493 (Barkan et al.).

#### **35 U.S.C. §101 Rejections**

Claims 35-40 have been rejected under 35 U.S.C. §101. Applicants have amended these claims to further clarify the invention and respectfully request that these rejections be withdrawn.

#### **35 U.S.C. §102 Rejections**

Claims 1, 8-14, 19, 22, 23, 25, 28-30, 33, 35 and 39-42 have been rejected under 35 U.S.C. §102(e) as being anticipated by Rehm. Applicants respectfully traverse these rejections.

Rehm discloses employing temporal service level metrics. The system includes a data gathering module operable to collect trouble tickets from service delivery infrastructure components, individual component time records divided into time segments corresponding to specific periods of time, a component calculator module operable to indicate trouble tickets in,

the individual component time records, an aggregate time record also divided into time segments corresponding to specific periods of time, and an aggregate calculator module operable to aggregate the component time records into the aggregate time record. The method comprises collecting trouble tickets from a plurality of service delivery infrastructure components, indicating the trouble tickets for each component in an individual component time record divided into time segments corresponding to specific periods of time, and aggregating the component time records into an aggregate time record, also divided into time segments corresponding to the periods of time.

Regarding claims 1, 10, 22, 30, 35 and 41, Applicants submit that Rehm does not disclose or suggest the limitations in the combination of each of these claims of, inter alia, forming groups of resources of the plurality of resources using a predetermined criteria comprising resources of a same type, or determining an aggregate evaluation of a selected metric for each group of resources of the plurality of resources, the selected metric being specific to each group, or adjusting the aggregate evaluation of the selected metric for each group in response to evaluation criteria, or determining a combined aggregate evaluation for all selected metrics for all groups of resources.

The Examiner asserts that Rehm discloses determining an aggregated evaluation of a selected metric for a group of resources of the plurality of resources, in Figure 3 and paragraph 32, lines 4-11 and paragraph 33. However, these portions of Rehm merely disclose different components that have time slots where trouble tickets are associated with different time slots. This is not determining an aggregate evaluation of a selected metric for each group of resources of the plurality of resources, the selected metric being specific to each group, as recited in the claims of the present application. The metric in Rehm (trouble ticket) is not specific to each group of resources (components). The trouble tickets are a common metric and the same for all components.

The Examiner further asserts that Rehm discloses adjusting the aggregate evaluation of the selected metric in response to evaluation criteria, in paragraph 34, lines 1-8. However, these portions merely disclose that for there to be a service outage, each component must have a trouble ticket in the same time slot. This is not adjusting the aggregate evaluation of the selected

metrics for each group in response to evaluation criteria, as recited in the claims of the present application. Rehm discloses making an adjustment for all groups combined.

On page 17 of the Office Action, the Examiner admits that Rehm does not disclose or suggest determining a combined aggregate evaluation for all selected metrics for all groups of resources, but asserts that Carlson et al. discloses these limitations. Therefore, this reference will be addressed here.

Carlson et al. discloses managing multiple resources in a system at a service level, including at least one host, network, and a storage space comprised of at least one storage system that each host is capable of accessing over the network. A plurality of service level parameters are measured and monitored indicating a state of the resources in the system. A determination is made of values for the service level parameters and whether the service level parameter values satisfy predetermined service level thresholds. Indication is made as to whether the service level parameter values satisfy the predetermined service thresholds. A determination is made of a modification to one or more resource deployments or configurations if the value for the service level parameter for the resource does not satisfy the predetermined service level thresholds.

The Examiner asserts that Carlson et al. discloses determining a combined aggregate evaluation for all selected metrics for all groups of resources, in Figure 18 and paragraph 126, lines 1-9. However, these portions of Carlson et al. merely disclose that service metrics specified in a service level agreement are monitored and measured and if they do not meet the requirements of the service level agreement, further analysis of the problem is performed and possible solutions are recommended if available. Each metric is measured, analyzed, and an associated resolution determined independent of the other metrics. This is not determining a combined aggregate evaluation for all selected metrics for all groups of resources, as recited in the claims of the present application. Carlson et al. discloses making recommendations related to each specific metric. Further, Carlson et al. does not disclose or suggest metrics for groups of resources, as recited in the claims of the present application.

Regarding claims 8, 9, 11-14, 19, 22, 23, 25, 28, 29, 33, 39, 40 and 42, Applicants submit that these claims are dependent on one of independent claims 1, 10, 22, 30, 35 and 41 and,

therefore, are patentable at least for the same reasons noted previously regarding these independent claims.

Accordingly, Applicants submit that Rehm (nor any of the other cited references) disclose, suggest or render obvious the limitations in the combination of each of claims 1, 8-14, 19, 22, 23, 25, 28-30, 33, 35 and 39-42 of the present application. Applicants respectfully request that these rejections be withdrawn and that these claims be allowed.

35 U.S.C. §103 Rejections

Claims 2-4, 6, 7, 15, 17, 26, 27, 31, 32, 36 and 37 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Rehm in view of Carlson et al. Applicants have canceled claims 2, 4, 6, 7, 15, 17, 26, 27, 36 and 37. Applicants respectfully traverse these rejections and submit that the remaining pending claims are dependent on one of independent claims 1, 22 and 30 and, therefore, are patentable at least for the same reasons noted previously regarding these independent claims.

Accordingly, Applicants submit that none of the cited references, taken alone or in any proper combination, disclose, suggest or render obvious the limitations in the combination of each of claims 3, 31 and 32 of the present application. Applicants respectfully request that these rejections be withdrawn and that these claims be allowed.

Claims 5, 16, 18 and 38 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Rehm in view of Carlson et al. and further in view of Bartz et al. Applicants have canceled claims 16 and 18. Applicants respectfully traverse these rejections and submit that the remaining pending claims are dependent on one of independent claims 1 and 35 and, therefore, are patentable at least for the same reasons noted previously regarding these independent claims. Applicants submit that Bartz et al. does not overcome the substantial defects noted previously regarding Rehm and Carlson et al.

Accordingly, Applicants submit that none of the cited references, taken alone or in any proper combination, disclose, suggest or render obvious the limitations in the combination of each of claims 5 and 38 of the present application. Applicants respectfully request that these rejections be withdrawn and that these claims be allowed.

Claim 20 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Rehm in view of Black et al. Applicants respectfully traverse this rejection and submit that this claim is dependent on independent claim 10 and, therefore, is patentable at least for the same reasons noted previously regarding this independent claim. Applicants submit that Black et al. does not overcome the substantial defects noted previously regarding Rehm.

Accordingly, Applicants submit that none of the cited references, taken alone or in any proper combination, disclose, suggest or render obvious the limitations in the combination of claim 20 of the present application. Applicants respectfully request that this rejection be withdrawn and that this claim be allowed.

Claims 21, 24, 43 and 44 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Rehm in view of Bartz et al. Applicants respectfully traverse these rejections and submit that these claims are dependent on one of independent claims 10, 22 and 41 and, therefore, are patentable at least for the same reasons noted previously regarding these independent claims. Applicants submit that Bartz et al. does not overcome the substantial defects noted previously regarding Rehm.

Accordingly, Applicants submit that none of the cited references, taken alone or in any proper combination, disclose, suggest or render obvious the limitations in the combination of each of claims 21, 24, 43 and 44 of the present application. Applicants respectfully request that these rejections be withdrawn and that these claims be allowed.

Claim 34 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Rehm in view of Barkan et al. Applicants respectfully traverse this rejection and submit that this claim is dependent on independent claim 30 and, therefore, is patentable at least for the same reasons noted previously regarding this independent claim. Applicants submit that Barkan et al. does not overcome the substantial defects noted previously regarding Rehm.

Accordingly, Applicants submit that none of the cited references, taken alone or in any proper combination, disclose, suggest or render obvious the limitations in the combination of claim 34 of the present application. Applicants respectfully request that this rejection be withdrawn and that this claim be allowed.



In view of the foregoing amendments and remarks, Applicants submit that claims 1, 3, 5, 8-14, 19-25, 28-35 and 38-44 are now in condition for allowance. Accordingly, early allowance of such claims is respectfully requested. If the Examiner has any questions about the present Amendment or anticipates finally rejecting any claim of the present application, a telephone interview is requested. If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 09-0461.

Respectfully submitted,

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